



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

#### [EPA-R04-OAR-2017-0364; FRL-9969-27-Region 4]

#### Air Plan Approval; South Carolina; Cross-State Air Pollution Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve portions of a revision to the South Carolina State Implementation Plan (SIP) concerning the Cross-State Air Pollution Rule (CSAPR). South Carolina submitted a draft version of this SIP revision for parallel processing on May 26, 2017, and a final version on September 5, 2017. Under CSAPR, large electricity generating units (EGUs) in South Carolina are subject to Federal Implementation Plans (FIPs) requiring the units to participate in CSAPR's federal trading program for annual emissions of nitrogen oxides (NO<sub>x</sub>) and one of CSAPR's two federal trading programs for annual emissions of sulfur dioxide (SO<sub>2</sub>). This action approves the State's regulations requiring large South Carolina EGUs to participate in new CSAPR state trading programs for annual NO<sub>x</sub> and SO<sub>2</sub> emissions integrated with the CSAPR federal trading programs and incorporates them into South Carolina's SIP, replacing the corresponding FIP requirements. These CSAPR state trading programs are substantively identical to the CSAPR federal trading programs, with the State retaining EPA's default allowance allocation methodology and EPA remaining the implementing authority for administration of the trading program. Under the CSAPR regulations, approval of these portions of the SIP revision automatically eliminates South Carolina units' obligations to participate in CSAPR's federal trading programs for annual NO<sub>x</sub> and SO<sub>2</sub> emissions under the corresponding CSAPR FIPs

addressing interstate transport requirements for the 1997 Annual Fine Particulate Matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS). Approval of these portions of the SIP revision satisfies South Carolina's good neighbor obligation for the 1997 Annual PM<sub>2.5</sub> NAAQS. EPA is not acting on any other portion of the September 5, 2017 submittal.

**DATES:** This rule is effective **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2017-0364. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ashten Bailey, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Bailey can be reached by telephone at (404) 562-9164 or via

electronic mail at [bailey.ashten@epa.gov](mailto:bailey.ashten@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background on CSAPR and CSAPR-related SIP revisions**

EPA issued CSAPR in July 2011 to address the requirements of Clean Air Act (CAA or Act) section 110(a)(2)(D)(i)(I) concerning interstate transport of air pollution.<sup>1</sup> As amended (including the 2016 CSAPR Update),<sup>2</sup> CSAPR requires 27 Eastern states to limit their statewide emissions of SO<sub>2</sub> and/or NO<sub>x</sub> in order to mitigate transported air pollution unlawfully impacting other states' ability to attain or maintain four NAAQS: the 1997 Annual PM<sub>2.5</sub> NAAQS, the 2006 24-hour PM<sub>2.5</sub> NAAQS, the 1997 8-hour ozone NAAQS, and the 2008 8-hour ozone NAAQS. The CSAPR emissions limitations are defined in terms of maximum statewide "budgets" for emissions of annual SO<sub>2</sub>, annual NO<sub>x</sub>, and/or ozone season NO<sub>x</sub> by each covered state's large EGUs. The CSAPR state budgets are implemented in two phases of generally increasing stringency, with the Phase 1 budgets applying to emissions in 2015 and 2016 and the Phase 2 (and CSAPR Update) budgets applying to emissions in 2017 and later years. As a mechanism for achieving compliance with the emissions limitations, CSAPR establishes five federal emissions trading programs: a program for annual NO<sub>x</sub> emissions, two geographically separate programs for annual SO<sub>2</sub> emissions, and two geographically separate programs for ozone-season NO<sub>x</sub> emissions. CSAPR also establishes FIP requirements applicable to the large EGUs in each

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<sup>1</sup> Federal Implementation Plans; Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 FR 48208 (August 8, 2011) (codified as amended at 40 CFR 52.38 and 52.39 and subparts AAAAA through EEEEE of 40 CFR part 97).

<sup>2</sup> 81 FR 74504 (October 26, 2016). The CSAPR Update was promulgated to address interstate pollution with respect to the 2008 ozone NAAQS and to address a judicial remand of certain original CSAPR ozone season NO<sub>x</sub> budgets promulgated with respect to the 1997 ozone NAAQS. 81 FR at 74505. The CSAPR Update established new emission reduction requirements addressing the more recent NAAQS and coordinated them with the remaining emission reduction requirements addressing the older NAAQS, so that starting in 2017, CSAPR includes two geographically separate trading programs for ozone season NO<sub>x</sub> emissions covering EGUs in a total of 23 states. See 40 CFR 52.38(b)(1)-(2).

covered state. Currently, the CSAPR FIP provisions require each state's units to participate in up to three of the five CSAPR trading programs.

CSAPR includes provisions under which states may submit and EPA will approve SIP revisions to modify or replace the CSAPR FIP requirements while allowing states to continue to meet their transport-related obligations using either CSAPR's federal emissions trading programs or state emissions trading programs integrated with the federal programs.<sup>3</sup> Through such a SIP revision, a state may replace EPA's default provisions for allocating emission allowances among the state's units, employing any state-selected methodology to allocate or auction the allowances, subject to timing conditions and limits on overall allowance quantities. In the case of CSAPR's federal trading programs for ozone season NO<sub>x</sub> emissions (or an integrated state trading program), a state may also expand trading program applicability to include certain smaller EGUs.<sup>4</sup> If a state wants to replace CSAPR FIP requirements with SIP requirements under which the state's units participate in a state trading program that is integrated with and identical to the federal trading program even as to the allocation and applicability provisions, the state may submit a SIP revision for that purpose as well. However, no emissions budget increases or other substantive changes to the trading program provisions are allowed. A state whose units are subject to multiple CSAPR FIPs and federal trading programs may submit SIP revisions to modify or replace either some or all of those FIP requirements.

States can submit two basic forms of CSAPR-related SIP revisions effective for emissions control periods in 2017 or later years.<sup>5</sup> Specific conditions for approval of each form

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<sup>3</sup> See 40 CFR 52.38, 52.39. States also retain the ability to submit SIP revisions to meet their transport-related obligations using mechanisms other than the CSAPR federal trading programs or integrated state trading programs.

<sup>4</sup> States covered by both the CSAPR Update and the NO<sub>x</sub> SIP Call have the additional option to expand applicability under the CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program to include non-electric generating units that would have participated in the former NO<sub>x</sub> Budget Trading Program.

<sup>5</sup> CSAPR also provides for a third, more streamlined form of SIP revision that is effective only for control periods in 2016 and is not relevant here. See 40 CFR 52.38(a)(3), (b)(3), (b)(7); 52.39(d), (g).

of SIP revision are set forth in the CSAPR regulations. Under the first alternative – an “abbreviated” SIP revision – a state may submit a SIP revision that upon approval replaces the default allowance allocation and/or applicability provisions of a CSAPR federal trading program for the state.<sup>6</sup> Approval of an abbreviated SIP revision leaves the corresponding CSAPR FIP and all other provisions of the relevant federal trading program in place for the state’s units.

Under the second alternative – a “full” SIP revision – a state may submit a SIP revision that upon approval replaces a CSAPR federal trading program for the state with a state trading program integrated with the federal trading program, so long as the state trading program is substantively identical to the federal trading program or does not substantively differ from the federal trading program except as discussed previously with regard to the allowance allocation and/or applicability provisions.<sup>7</sup> For purposes of a full SIP revision, a state may either adopt state rules with complete trading program language, incorporate the federal trading program language into its state rules by reference (with appropriate conforming changes), or employ a combination of these approaches.

The CSAPR regulations identify several important consequences and limitations associated with approval of a full SIP revision. First, upon EPA’s approval of a full SIP revision as correcting the deficiency in the state’s implementation plan that was the basis for a particular set of CSAPR FIP requirements, the obligation to participate in the corresponding CSAPR federal trading program is automatically eliminated for units subject to the state’s jurisdiction without the need for a separate EPA withdrawal action, so long as EPA’s approval of the SIP is full and unconditional.<sup>8</sup> Second, approval of a full SIP revision does not terminate the obligation to participate in the corresponding CSAPR federal trading program for any units located in any

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<sup>6</sup> 40 CFR 52.38(a)(4), (b)(4), (b)(8); 52.39(e), (h).

<sup>7</sup> 40 CFR 52.38(a)(5), (b)(5), (b)(9); 52.39(f), (i).

<sup>8</sup> 40 CFR 52.38(a)(6), (b)(10)(i); 52.39(j).

Indian country within the borders of the state, and if and when a unit is located in Indian country within a state's borders, EPA may modify the SIP approval to exclude from the SIP, and include in the surviving CSAPR FIP instead, certain trading program provisions that apply jointly to units in the state and to units in Indian country within the state's borders.<sup>9</sup> Finally, if at the time a full SIP revision is approved EPA has already started recording allocations of allowances for a given control period to a state's units, the federal trading program provisions authorizing EPA to complete the process of allocating and recording allowances for that control period to those units will continue to apply, unless EPA's approval of the SIP revision provides otherwise.<sup>10</sup>

On July 28, 2015, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued a decision on a number of petitions related to CSAPR, which found that EPA required more emissions reductions than may have been necessary to address the downwind air quality problems to which some states contribute. The court remanded several CSAPR emission budgets to EPA for reconsideration, including the Phase 2 SO<sub>2</sub> trading budget for South Carolina.<sup>11</sup> However, South Carolina has proposed to voluntarily adopt into their SIP a CSAPR state trading program that is integrated with the federal trading program and includes a state-established SO<sub>2</sub> budget equal to the state's remanded Phase 2 SO<sub>2</sub> emission budget.<sup>12</sup> EPA notes that nothing in the court's decision affects South Carolina's authority to seek incorporation into its SIP of a state-established budget as stringent as the remanded federally-established budget or

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<sup>9</sup> 40 CFR 52.38(a)(5)(iv)-(v), (a)(6), (b)(5)(v)-(vi), (b)(9)(vi)-(vii), (b)(10)(i); 52.39(f)(4)-(5), (i)(4)-(5), (j).

<sup>10</sup> 40 CFR 52.38(a)(7), (b)(11)(i); 52.39(k).

<sup>11</sup> *EME Homer City Generation, L.P. v. EPA (EME Homer City II)*, 795 F.3d 118 (D.C. Cir. 2015). The D.C. Circuit also remanded SO<sub>2</sub> budgets for Alabama, Georgia, and Texas. The court also remanded Phase 2 ozone-season NO<sub>x</sub> budgets for eleven states, including South Carolina.

<sup>12</sup> See memo entitled "The U.S. Environmental Protection Agency's Plan for Responding to the Remand of the Cross-State Air Pollution Rule Phase 2 SO<sub>2</sub> Budgets for Alabama, Georgia, South Carolina and Texas" from Janet G. McCabe, EPA Acting Assistant Administrator for Air and Radiation, to EPA Regional Air Division Directors (June 27, 2016), available at <https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0598-0003>. The memo directs the Regional Air Division Directors to share the memo with state officials. EPA also communicated orally with officials in Alabama, Georgia, South Carolina, and Texas in advance of the memo.

limits EPA's authority to approve such a SIP revision. The CSAPR regulations provide each covered state with the option to meet its transport obligations through SIP revisions replacing the federal trading programs and requiring the state's EGUs to participate in integrated CSAPR state trading programs that apply emissions budgets of the same or greater stringency. Under the CSAPR regulations, when such a SIP revision is approved, the corresponding FIP provisions are automatically withdrawn.

In the CSAPR rulemaking, EPA determined that air pollution transported from South Carolina would unlawfully affect other states' ability to attain or maintain the 1997 Annual PM<sub>2.5</sub> NAAQS.<sup>13</sup> South Carolina units meeting the CSAPR applicability criteria were consequently made subject to FIP provisions requiring participation in CSAPR federal trading programs for annual SO<sub>2</sub> and annual NO<sub>x</sub> emissions.<sup>14</sup> On May 26, 2017, South Carolina submitted to EPA a draft SIP revision including provisions that, if all portions were approved, would incorporate into South Carolina's SIP CSAPR state trading program regulations that would replace the CSAPR regulations for the two federal trading programs with regard to South Carolina units.

In a notice of proposed rulemaking (NPRM) published on August 10, 2017 (82 FR 37389), EPA proposed to approve the portions of South Carolina's May 26, 2017, draft SIP submittal designed to replace the CSAPR federal annual SO<sub>2</sub> and NO<sub>x</sub> trading programs. Because South Carolina submitted the draft SIP revision for parallel processing, EPA's August 10, 2017, proposed rulemaking was contingent upon South Carolina providing a final SIP revision that was substantively the same as the draft SIP revision. *See* 82 FR 37389. Comments on the NPRM were due on or before September 11, 2017. EPA received no adverse comments on the proposed action.

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<sup>13</sup> *See* 76 FR at 48213. The NPRM contains a more detailed summary of EPA's determinations with regard to South Carolina in the CSAPR and the CSAPR Update rulemakings.

<sup>14</sup> 40 CFR 52.38(a)(2), (b)(2); 52.39(c); 52.2140; 52.2141.

South Carolina submitted the final version of its SIP revision on September 5, 2017.<sup>15</sup> The September 5, 2017, SIP submittal had no substantive changes from the May 26, 2017, draft. Please refer to the NPRM for more detailed information regarding the SIP revision and the Agency's rationale for today's final rulemaking.

## **II. Incorporation by Reference**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of South Carolina Regulation 61-62.97, entitled "Cross-State Air Pollution Rule (CSAPR) Trading Program," state effective on August 25, 2017. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 4 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.<sup>16</sup>

## **III. Final Actions**

EPA is approving the portions of South Carolina's September 5, 2017, final SIP submittal concerning the establishment for South Carolina units of CSAPR state trading programs for annual NO<sub>x</sub> and SO<sub>2</sub> emissions and adopting into the SIP the state trading program rules codified in South Carolina regulation 61-62.97 ("Cross-State Air Pollution Rule (CSAPR) Trading Program"). These South Carolina CSAPR state trading programs will be integrated with

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<sup>15</sup> Both the draft and final SIP revisions are provided in the docket for this action.

<sup>16</sup> 62 FR 27968 (May 22, 1997).



the federal CSAPR NO<sub>x</sub> Annual Trading Program and the federal CSAPR SO<sub>2</sub> Group 2 Trading Program, respectively, and are substantively identical to the federal trading programs. South Carolina units therefore will generally be required to meet requirements under South Carolina's CSAPR state trading programs equivalent to the requirements the units otherwise would have been required to meet under the corresponding CSAPR federal trading programs. Under the State's regulations, the State will retain EPA's default allowance allocation methodology and EPA will remain the implementing authority for administration of the trading programs. EPA is approving these portions of the SIP revision because they meet the requirements of the CAA and EPA's regulations for approval of a CSAPR full SIP revision replacing a federal trading program with a state trading program that is integrated with and substantively identical to the federal trading program.

EPA promulgated the FIP provisions requiring South Carolina units to participate in the federal CSAPR NO<sub>x</sub> Annual Trading Program and the federal CSAPR SO<sub>2</sub> Group 2 Trading Program in order to address South Carolina's obligations under CAA section 110(a)(2)(D)(i)(I) with respect to the 1997 PM<sub>2.5</sub> NAAQS in the absence of SIP provisions addressing those requirements. Approving the portions of South Carolina's SIP submittal adopting CSAPR state trading program rules for annual NO<sub>x</sub> and SO<sub>2</sub> substantively identical to the corresponding CSAPR federal trading program regulations (or differing only with respect to the allowance allocation methodology) corrects the same deficiency in the SIP that otherwise would be corrected by those CSAPR FIPs. Under the CSAPR regulations, upon EPA's full and unconditional approval of a SIP revision as correcting the SIP's deficiency that is the basis for a particular CSAPR FIP, the obligation to participate in the corresponding CSAPR federal trading program is automatically eliminated for units subject to the state's jurisdiction (but not for any

units located in any Indian country within the state's borders).<sup>17</sup> EPA's approval of the portions of South Carolina's SIP submittal establishing CSAPR state trading program rules for annual NO<sub>x</sub> and SO<sub>2</sub> emissions therefore results in automatic termination of the obligations of South Carolina units to participate in the federal CSAPR NO<sub>x</sub> Annual Trading Program and the federal CSAPR SO<sub>2</sub> Group 2 Trading Program. Further, when promulgating the FIP provisions requiring South Carolina units to participate in those two CSAPR trading programs, EPA found that those FIP requirements would fully satisfy South Carolina's obligation pursuant to CAA section 110(a)(2)(D)(i)(I) to prohibit emissions which will significantly contribute to nonattainment or interfere with maintenance of the 1997 PM<sub>2.5</sub> NAAQS in any other state.<sup>18</sup> This approval of portions of South Carolina's SIP revision as correcting the SIP's deficiency that was the basis for those FIP requirements therefore likewise fully satisfies the state's transport obligation with respect to the 1997 PM<sub>2.5</sub> NAAQS.

As noted in EPA's NPRM, the Phase 2 SO<sub>2</sub> budget established for South Carolina in the CSAPR rulemaking was remanded to EPA for reconsideration.<sup>19</sup> With the approval of these portions of the SIP revision as proposed, South Carolina has fulfilled its obligations to provide a SIP that addresses the interstate transport provisions of CAA section 110(a)(2)(D)(i)(I) with respect to the 1997 PM<sub>2.5</sub> NAAQS. Thus, EPA no longer has an obligation to (nor does EPA have the authority to) address those transport requirements through implementation of a FIP, and approval of these portions of the SIP revision eliminates South Carolina units' obligations to participate in the federal CSAPR NO<sub>x</sub> Annual Trading Program and the federal CSAPR SO<sub>2</sub> Group 2 Trading Program. Elimination of South Carolina units' obligations to participate in the federal trading programs includes elimination of the requirements to comply with the federally-

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<sup>17</sup> 40 CFR 52.38(a)(6); 52.39(j); *see also* 52.2140(a)(1); 52.2141(a).

<sup>18</sup> *See* 76 FR at 48210.

<sup>19</sup> *EME Homer City II*, 795 F.3d at 138.

established Phase 2 budgets capping allocations of CSAPR NO<sub>x</sub> Annual allowances and CSAPR SO<sub>2</sub> Group 2 allowances to South Carolina units under those federal trading programs. As approval of these portions of the SIP revision eliminates requirements to comply with South Carolina's remanded federally-established Phase 2 SO<sub>2</sub> budget and eliminates EPA's authority to subject units in South Carolina to a FIP, it is EPA's opinion that this action addresses the judicial remand of South Carolina's federally-established Phase 2 SO<sub>2</sub> budget.<sup>20</sup>

#### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

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<sup>20</sup> Although the court in *EME Homer City II* remanded South Carolina's Phase 2 SO<sub>2</sub> budget because it determined that the budget was too stringent, nothing in the court's decision affects South Carolina's authority to seek incorporation into its SIP of a state-established budget as stringent as the remanded federally-established budget or limits EPA's authority to approve such a SIP revision. *See* 42 U.S.C. 7416, 7410(k)(3).

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This rule for South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation Reservation is located within the state of South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120, “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” However, the rules proposed for approval exclude units in Indian country from the applicable requirements of the rules and exclude federal trading provisions related to EPA’s

process for allocating and recording allowances from Indian country NUSAs. EPA notes this action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 29, 2017.

Onis “Trey” Glenn, III

Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

**Subpart A—General Provisions**

**§ 52.38 [Amended]**

2. Amend § 52.38, paragraph (a)(8)(iii) by removing the words “Alabama and Georgia” and adding the words “Alabama, Georgia, and South Carolina” in its place.

**§ 52.39 [Amended]**

3. Amend § 52.39 paragraph (m)(3) by removing the words “Alabama and Georgia” and adding the words “Alabama, Georgia, and South Carolina” in its place.

**Subpart PP—South Carolina**

4. Amend § 52.2120 in the table in paragraph (c) by adding in numerical order an entry for “Regulation No. 62.97” to read as follows:

**§52.2120 Identification of plan.**

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(c) \* \* \*

**AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA**

<b>State citation</b>	<b>Title/subject</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>FEDERAL REGISTER NOTICE</b>
* *	* *	*	*	*
Regulation No. 62.97	Cross-State Air Pollution Rule (CSAPR) Trading Program	8/25/2017	[Insert date of publication in the <u>Federal Register</u> ]	[Insert Federal Register citation]
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[FR Doc. 2017-22128 Filed: 10/12/2017 8:45 am; Publication Date: 10/13/2017]